IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1431 OF 2005
IN
EXECUTION APPLICATION (L) NO.328 OF 2005
IN
SURAT SUMMARY SUIT NO.71 OF 2002

The Udhna Citizen co-op. Bank Ltd. Plaintiff
(Judgment Crdtor)

versus

Home Trade Limited Defendant
(Judgment Debtor)

and

Bombay Stock Exchange & ors. Respondents

Mr.P.C.Mankad i/by P.D.Kadam for plaintiffs.

Mr.V.K.Rambhadran for respondent no.2.

Ms.Mohana Nair for respondent no.3.

Mr.P.N.Mody with Sagar Divekar for R-1.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th June 2006

PC :

1. Shri Mankad appearing for the decree holder does not dispute that the Stock Exchanges concerned (respondents 1 to 4) have filed necessary affidavits and made disclosures with regard to the liability of the defendant/

judgement debtor company.

2. He submits that the details disclosed in the affidavit demonstrate that the judgement debtor has a liability towards Income Tax Department as also several other creditors. He submits that in case any payments are made to these creditors, the plaintiff-decree holder should have the details thereof and, therefore, it would be proper if this Court directs disclosure of such details as well.

3. Shri Mankad does not dispute that there is an order u/s 102 of the Code of Criminal Procedure in force. That order directs the Managing Director, National Stock Exchange (NSE) not to allow withdrawal of a deposit of Rs.1.00 crore (Rs.One crore only) which is lying with the NSE, without prior permission of the Court or CBI.. He submits that in case this amount is paid over after seeking prior permission, the decree holder would have no information in that behalf.

4. In my view, this apprehension is not well founded. It would be open for the decree holder to move the CBI as also the Court where the criminal proceedings are pending, in addition to

the NSE and seek details, if such payments are made or amount of Rs.1.00 crore lying deposited is released by the NSE.. All remedies in that behalf are expressly kept open.

5. Shri Mody appearing for Bombay Stock Exchange (BSE) points out that as far as BSE is concerned, the CBI has not issued any order or direction of the above nature but the amount lying deposited with BSE stands attached pursuant to attachment under Income Tax Act, 1961. Even these details can be sought by the present decree holder and remedies in that behalf are expressly kept open.

6. Shri Mody as well as Shri Rambhadran make a statement, without prejudice o their rights and contentions, that in the event the BSE and NSE allow any withdrawal or make payments to the judgement debtor, they will provide details in that behalf to the present plaintiff-decree holder.

7. As far as respondent no.3 is concerned, Ms.Nair appearing for the said Exchange makes a statement that it has no deposit or amount lying with it and in turn it will have to recover some amount from the judgement debtor. Therefore, as

far as this respondent is concerned, no directions are necessary.

8. Same position as that of the BSE and NSE is existing insofar as Poona Stock Exchange is concerned. Therefore, it will also be open for the plaintiff-decree holder to seek such reliefs as are permissible in law, if amounts are allowed to be withdrawn or paid over by that Exchange as well. Chamber Summons stands disposed of in the above terms. No order as to costs.

(S.C.DHARMADHIKARI, J.)